UNITED STATES PATENT AND TRADEMARK OFFICE

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

		Application No.	Applicant(s)
Office Action Summary		10/743,848	COWAN ET AL.
		Examiner	Art Unit
		Christyann Pulliam	2165

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>25 June 2007 and 16 August 2007</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-20 and 22-25</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-20 and 22-25</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____ .

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>5/16/2007</u>.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____ .

DETAILED ACTION

Response to Amendment

1.   Claims 1-20 and 22-25 are pending. Claims 1-3, 7-8, 10-11, 14-16 and 22 are currently amended. Claims 4-6, 9, 12-13, and 17-19 are original. Claim 20 is previously presented. Claim 21 is canceled. Claims 23-25 are new.

2.   Applicant's amendments have overcome objections to drawing, specification and claims, 112 and 101 rejections.

3.   An additional Information Disclosure Statement was filed May 16, 2007.

4.   Since prior art rejections remain, this action is FINAL.

Claim Objections

5.   Claim 7 is objected to because of the following informalities: misplaced "and". The "and" added to the claim was misplaced since an additional element was also added. It should be located between the last two element descriptions. Appropriate correction is required.

Claim Rejections - 35 USC § 103

6.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

7.   Claims 1-4, 6-10, 12-17, 19-20, 22 and 24-25 are rejected under 35

U.S.C. 103(a) as being unpatentable over Knight et al., U.S. Patent No. 6,721,748

(hereinafter Knight), and in view of Pea et al., U.S. PGPub. No. 2004/0125133

(hereinafter Pea).

As for Claims 1 and 14, Knight teaches:

allowing a consumer to join a community (See e.g. Knight - subscribers – col. 5,

lines 9-14);

monitoring access to content by members of the community (See e.g. Knight -

col. 6, lines 48-53)...

determining a community interest in the content in response to members of the

community accessing the content (See e.g. Knight - col. 6, lines 48-58); and

automatically distributing the content to the consumer over the distribution

network in response to the community interest (See e.g. Knight - col. 6, lines 32-38).

Knight does not expressly call its network a grid computing network. However,

Pea teaches the monitoring being performed by a grid computing platform implemented

by a plurality of geographically dispersed network elements, the grid computing platform

executing a grid application to control resources within a distribution network (See e.g.

Pea - paragraphs [0061] and [0095-0109]).

Knight and Pea are from the analogous art of content distribution. It would have

been obvious to one of ordinary skill in the art at the time the invention was made

having the teachings of Knight and Pea to have combined Knight and Pea. The

motivation to combine Knight and Pea is improve access to content in a networked user

community. Pea adds details about the video creation and grid networking for

distribution to the system of Knight. Both deal with authoring, sharing and distributing

content to users. Both track interaction profiles and user communities.

As for Claim 7, Knight teaches:

A system for distributing content to consumers, the system comprising:

a network element receiving a request from a consumer to join a community (See

e.g. Knight - subscribers – col. 5, lines 9-14);

a database coupled to the network element maintaining records of one or more

communities associated with the consumer (See e.g. Knight – col. 6, lines 53-60);

a consumer network in communication with the network element (See e.g. Knight

– col. 6, lines 53-60 and Figure 2);

the network element monitoring access to content by members of the community

(See e.g. Knight - col. 6, lines 48-53);

the network element determining a community interest in the content in response

to members of the community accessing the content (See e.g. Knight - col. 6, lines 48-

58); and

the network element automatically distributing the content to the consumer

network in response to the community interest (See e.g. Knight - col. 6, lines 32-38).

Knight does not expressly call its network a grid computing network. However,

Pea teaches the network element being part of a grid computing platform implemented

by a plurality of geographically dispersed network elements, the grid computing platform

executing a grid application to control resources within a distribution network (See e.g.

Pea - paragraphs [0061] and [0095-0109]).

Knight and Pea are from the analogous art of content distribution. It would have

been obvious to one of ordinary skill in the art at the time the invention was made

having the teachings of Knight and Pea to have combined Knight and Pea. The

motivation to combine Knight and Pea is improve access to content in a networked user

community. Pea adds details about the video creation and grid networking for

distribution to the system of Knight. Both deal with authoring, sharing and distributing

content to users. Both track interaction profiles and user communities.

As for Claims 2, 8, and 15, Knight as modified teaches the parent Claims of 1, 7,

and 14. Knight also teaches wherein: the community interest is determined based on a

percentage of members in the community that have accessed the content (See e.g.

Knight - col. 6, lines 38-53, col. 7, lines 14-18 Fig 3D hot list, and Claim 2).

As for Claims 3, 9, and 16, Knight as modified teaches the parent Claims of 1-2,

7-8, and 14-15. Knight also teaches the community interest is compared to a reference

to initiate the automatically distributing (See e.g. Knight - col. 6, lines 33-67).

As for Claims 4, 10, and 17, Knight as modified teaches the parent Claims of 1,

7, and 14. Knight also teaches wherein: the automatically distributing includes storing

the content on a consumer storage device associated with the consumer (See e.g.

Knight - col. 6, lines 33-37 and lines 53-67).

As for Claims 6, 12, and 19, Knight as modified teaches the parent Claims of 1,

7, and 14. Knight also teaches wherein: the automatically distributing the content is

dependent on a consumer preference to receive automatically distributed content (See

e.g. Knight - col. 23, lines 49-67).

As for Claim 20, Knight as modified teaches the parent Claim 1. Knight also

teaches wherein: the content includes at least one of video, audio and consumer-

generated content (See e.g. Knight - col.8, lines 54-65).

As for Claim 24, Knight as modified teaches the parent Claim 1. Knight also

teaches wherein the grid computing platform determines when to store a video program

in response to customer preference and customer viewing habits (See e.g. <u>Knight</u> – col.

6, lines 31-52 and col. 7, lines 5-18).

As for Claim 25, <u>Knight</u> as modified teaches the parent Claim 1 and 24. <u>Knight</u>

also teaches wherein the grid computing platform determines where to store the video

program across a plurality of network elements, including storing the video program on

a consumer storage device (See e.g. <u>Knight</u> – col. 6, lines 53-60, col. 22, lines 58-67

and col. 23, lines 53-60).

As for Claim 22, <u>Knight</u> teaches:

A controller for controlling distribution of content, the controller comprising:

a processor ..., the processor executing processing including:

receiving input from a consumer to join a community (See e.g. <u>Knight</u> -

subscribers – col. 5, lines 9-14),

receiving content having a community interest in the content in response to

members of the community accessing the content (See e.g. <u>Knight</u> - col. 6, lines 38-53,

col. 7, lines 14-18, Fig 3D hot list, and Claim 2); and

notifying the consumer that the content is available (See e.g. <u>Knight</u> - col. 26,

lines 23-26- alerted and col. 23, lines 49-67).

<u>Knight</u> does not expressly call its network a grid computing network. However,

<u>Pea</u> teaches a processor executing a grid application as part of a grid computing

platform implemented by a plurality of geographically dispersed network elements, the

grid computing platform executing a grid application to control resources within a

distribution network (See e.g. Pea - paragraphs [0061] and [0095-0109]).

Knight and Pea are from the analogous art of content distribution. It would have

been obvious to one of ordinary skill in the art at the time the invention was made

having the teachings of Knight and Pea to have combined Knight and Pea. The

motivation to combine Knight and Pea is improve access to content in a networked user

community. Pea adds details about the video creation and grid networking for

distribution to the system of Knight. Both deal with authoring, sharing and distributing

content to users. Both track interaction profiles and user communities.

8.   Claims 5, 11, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Knight as modified by Pea above, and further in view of Levinson, U.S. Patent No.

5,404,505 (hereinafter Levinson).

As for Claims 5, 11, and 18, Knight as modified teaches the parent Claims of 1,

4, 7, 10, 14 and 16. Knight also teaches further comprising:

notifying the consumer that the content is available on the consumer storage

device (See e.g. Knight - col. 26, lines 23-26- alerted and col. 23, lines 49-67).

Knight considers subscription fees (See e.g. Knight - col. 28, lines 23-34) and charging

for the use of features (See e.g. Knight - col. 18, lines 42-45) but does not expressly

teach billing a customer based on the content they view. However, Levinson teaches

billing the consumer upon the consumer accessing the content on the consumer

storage device (See e.g. Levinson – col. 4, lines 26-30).

The motivation to combine Knight and Pea is explained above with Claim 1.

Knight and Levinson are from the providing content to subscribers. It would have been

obvious to one of ordinary skill in the art at the time the invention was made having the

teachings of Knight and Levinson to have combined Knight and Levinson. The

motivation to combine Knight and Levinson comes from common practice of charging

consumers for a service. Knight has subscription fees (See e.g. Knight - col. 28, lines

23-34) and charging for the use of features (See e.g. Knight - col. 18, lines 42-45).

Levinson provides a common enhancement to that billing system that links the charge

to the content item accessed.

9.   Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Knight

as modified by Pea above, and further in view of Howe et al., U.S. Patent No. 5,818,438

(hereinafter Howe) (cited on Applicant's IDS).

As for Claim 23, Knight as modified teaches the parent Claim 7. Knight also

teaches wherein the grid computing platform includes a plurality of network elements

including... consumer storage devices and network storage devices (See e.g. Knight –

col. 6, lines 53-60, col. 22, lines 58-67 and col. 23, lines 53-60).

Knight does not expressly teach set-top boxes. However, Howe teaches set-top

boxes (Abstract).

The motivation to combine Knight and Pea is explained above with Claim 1.

Knight and Howe are from the providing content to subscribers. It would have been

obvious to one of ordinary skill in the art at the time the invention was made having the

teachings of Knight and Howe to have combined Knight and Howe. The motivation to

combine Knight and Howe is to improve access to content. Howe adds set top boxes to

the system of Knight to diversify the means to access content in a networked

community. The user can use the computer of the set top box to access content in

addition to a traditional PC or mobile device. Both also provide access to video content.

Response to Arguments

10.   Applicant's arguments have been considered but are moot in view of the new

ground(s) of rejection.

Conclusion

11.   The prior art made of record and not relied upon is considered pertinent to

applicant's disclosure.

      U.S. Patent No. 6460082 teaches resource configuration of distributed media

servers.

      U.S. Patent No. 7130891 teaches grid computing server management.

      U.S. PGPub. No. 2003/0023757 teaches distributing content over a network.

U.S. PGPub. No. 2004/0254999 has a common assignee and similar subject matter.

12.   Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christyann Pulliam whose telephone number is 571-270-1007. The examiner can normally be reached on M-F 9 am-6 pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Gaffin can be reached on 571-272-4146. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

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CRFP CRFP
October 17, 2007